

Senate File 519 - Introduced

SENATE FILE 519
BY COMMITTEE ON GOVERNMENT
OVERSIGHT

(SUCCESSOR TO SSB 1202)

A BILL FOR

1 An Act relating to membership in and membership dues paid to
2 organizations representing school boards, board members, and
3 administrators, and to the responsibilities and duties of
4 such organizations, and providing penalties and remedies.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 279.38, Code 2011, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **279.38 Membership in organizations — requirements.**

4 1. As used in this section:

5 a. "*Compensation*" means the same as defined in section 8F.2,
6 subsection 2.

7 b. "*Organization*" means a local, state, regional, or
8 national organization which relates to the functions of
9 the board of directors of a school district or to the
10 administrators of a school district and to which the school
11 board pays monetary fees or annual dues in accordance with
12 subsection 2.

13 2. a. The board of directors of a school district, the
14 duly elected members of the school board, and designated
15 administrators of school districts may join and participate in
16 organizations, including but not limited to organizations such
17 as the Iowa association of school boards, the urban education
18 network, Iowa school finance information services, and the
19 school administrators of Iowa. The school board may pay out
20 of funds available to the school board reasonable monetary
21 fees or annual dues for membership of the school board, or a
22 board member or administrator, in such an organization. Such
23 an organization that receives fees or dues for membership
24 from a school board shall be considered a taxpayer-funded
25 organization.

26 b. Each school board that pays monetary fees or annual
27 dues to an organization shall annually report to the local
28 community and to the department of education the amount paid
29 in annual dues to the organization and the amount of any dues,
30 fees, or assessments of any kind paid, and revenue or dividend
31 payments received, for services received from the organization,
32 and the products or services received due to membership in
33 the organization. The information shall be submitted to the
34 department electronically in the format specified by the
35 department.

1 3. The financial condition and transactions of an
2 organization shall be audited in the same manner as school
3 corporations as provided in section 11.6. The organization
4 shall establish an audit committee to review the financial
5 condition and transactions of the organization and the report
6 of examination conducted in accordance with this subsection.
7 The auditor conducting an examination in accordance with this
8 subsection shall have full access to the audit committee
9 and to all of the organization's records, reports, audits,
10 tax reports, and all other documents and papers issued or
11 maintained by the organization.

12 4. An organization shall do all of the following:

13 *a.* Publish annually on its internet site, and in a report
14 submitted annually to the department of education, the standing
15 committees on government oversight, and the general assembly,
16 all of the following:

17 (1) A listing of the school districts that pay fees or dues
18 for membership in the organization and the moneys paid by each
19 school district.

20 (2) The total revenue the organization receives from each
21 school district resulting from the payment of monetary fees or
22 annual dues, and the total net profit from the sale of products
23 and services to the school district by the organization.

24 (3) An accounting, broken down by individual employee,
25 of the total amount of moneys expended for reimbursement of
26 expenses incurred by and compensation paid to each of the ten
27 highest paid employees of the organization as evidenced by the
28 tax forms submitted by the organization to the internal revenue
29 service.

30 (4) An accounting of all moneys expended for reimbursement
31 of expenses incurred by and compensation paid to all
32 legislative representatives and lobbyists of the organization.

33 *b.* Submit to the general assembly and the standing committee
34 on government oversight copies of all reports the organization
35 provides to the United States department of education relating

1 to federal grants and grant amounts that the organization
2 administers or distributes to school districts.

3 *c.* Provide education and training to the organization's
4 board members in the fiduciary duties and legal
5 responsibilities of members.

6 5. *a.* A person who serves as the head of an organization
7 or otherwise serves in a supervisory capacity within the
8 organization shall not require an employee of the organization
9 to inform the person that the employee made a disclosure
10 of information permitted by this subsection and shall not
11 prohibit an employee of the organization from disclosing any
12 information to a member of the governing board or to any
13 public official, a law enforcement agency, a state agency, the
14 auditor of state or an auditor conducting an examination of
15 the organization in accordance with section 11.6, the office
16 of the attorney general, the office of citizens' aide, or to a
17 committee of the general assembly if the employee reasonably
18 believes the information evidences a violation of law or rule,
19 mismanagement, a gross abuse of funds, an abuse of authority,
20 or a substantial and specific danger to public health or
21 safety. However, an employee may be required to inform the
22 person that the employee made a disclosure of information
23 permitted by this subsection if the employee represented that
24 the disclosure was the official position of the employee's
25 immediate supervisor or employer.

26 *b.* A person shall not discharge an employee from or take
27 or fail to take action regarding an employee's appointment or
28 proposed appointment to, promotion or proposed promotion to,
29 or any advantage in, a position administered by, or subject
30 to approval of, the person or the organization's governing
31 board as a reprisal for a failure by that employee to inform
32 the person that the employee made a disclosure of information
33 permitted by this subsection, or for a disclosure of any
34 information by that employee authorized under paragraph "a"
35 if the employee reasonably believes the information evidences

1 a violation of law or rule, mismanagement, a gross abuse of
2 funds, an abuse of authority, or a substantial and specific
3 danger to public health or safety. However, an employee may
4 be required to inform the person that the employee made a
5 disclosure of information permitted by this subsection if the
6 employee represented that the disclosure was the official
7 position of the employee's immediate supervisor or employer.

8 c. Paragraphs "a" and "b" do not apply if the disclosure of
9 the information is prohibited by statute.

10 d. A person who violates paragraph "a" or "b" commits a
11 simple misdemeanor.

12 e. Paragraph "b" may be enforced through a civil action.

13 (1) A person who violates paragraph "b" is liable to
14 an aggrieved employee for affirmative relief including
15 reinstatement, with or without back pay, or any other equitable
16 relief the court deems appropriate, including attorney fees and
17 costs.

18 (2) When a person commits, is committing, or proposes to
19 commit an act in violation of paragraph "b", an injunction may
20 be granted through an action in district court to prohibit the
21 person from continuing such acts. The action for injunctive
22 relief may be brought by an aggrieved employee or the attorney
23 general.

24 f. A person shall not discharge an employee from or take
25 or fail to take action regarding an employee's appointment or
26 proposed appointment to, promotion or proposed promotion to,
27 or any advantage in, a position administered by, or subject
28 to approval of, the person or the organization's governing
29 board as a reprisal for the employee's declining to participate
30 in contributions or donations to charities or community
31 organizations.

32 g. The person and the organization's governing board
33 shall provide procedures for notifying the organization's
34 new employees of the provisions of this subsection and shall
35 periodically conduct promotional campaigns to provide similar

1 information to the organization's employees. The information
2 shall include the toll-free telephone number of the citizens'
3 aide.

4 6. a. Except as otherwise provided in paragraph "b", all
5 meetings of the governing board of the organization shall
6 comply with the requirements of chapter 21 and all records of
7 the governing board and the organization shall be maintained
8 in accordance with chapter 22.

9 b. The governing board of the organization may keep the
10 following records confidential and the governing board may hold
11 a closed session meeting to discuss the following matters:

12 (1) Personal information in confidential personnel records
13 maintained by the governing board of the organization.

14 (2) Information related to legal matters including
15 discussions or consultations with an attorney. Attorney
16 billing records are not confidential records except for such
17 records that are subject to the attorney-client privilege.

18 (3) Pricing, product, service, business strategy, or
19 marketing information which if released, would give an
20 advantage to competitors, vendors, or other parties and that
21 serve no public purpose.

22 Sec. 2. REPEAL. Section 279.38A, Code 2011, is repealed.

23

EXPLANATION

24 This bill strikes Code section 279.38 and repeals Code
25 section 279.38A, but combines much of the language of these
26 two Code sections to modify the statutory requirements of
27 organizations to which school boards, school board members,
28 and school district administrators may join and pay monetary
29 fees or dues for membership. School boards, board members, and
30 school administrators may join and participate in local, state,
31 regional, and national organizations which directly relate
32 to the administrator or school board functions of the school
33 district. Such organizations include but are not limited to
34 the Iowa association of school boards, the urban education
35 network, Iowa school finance information services, and the

1 school administrators of Iowa. Such an organization shall be
2 considered a taxpayer-funded organization.

3 Each board that pays membership dues must annually report
4 the local community and to the department of education the
5 amount the board pays in annual dues to the organization and
6 the amount of any fees paid, and revenue or dividend payments
7 received, for services received from the organization, and
8 the products or services received due to membership in the
9 organization. The bill requires that the information be
10 submitted to the department electronically in the format
11 specified by the department.

12 The financial condition and transactions of the
13 organizations shall be audited in the same manner as school
14 districts. Under the bill, the organization must establish
15 an audit committee to review the financial condition and
16 transactions of the organization and the audit report. The
17 auditor conducting the examination shall have full access to
18 the audit committee and to all of the organization's records,
19 reports, audits, tax reports, and all other documents and
20 papers issued or maintained by the organization.

21 Such organizations must publish annually, in a report
22 submitted annually to the department of education, the standing
23 committees on government oversight, and the general assembly,
24 a listing of the school districts and the dues paid by each
25 school district; the total revenue the organization receives
26 from each school district resulting from the payment of
27 membership fees; the total net profit from the sale of products
28 and services to the school district by the organization;
29 the total amount of the annual compensation and expenses
30 paid to the organization's 10 highest paid employees, broken
31 down by individual employee; and an accounting of all moneys
32 expended for reimbursement of expenses and compensation paid to
33 legislative representatives and lobbyists of the organization.

34 Under the bill, the organization must also provide education
35 and training to its board members regarding their fiduciary

1 duties and legal responsibilities.

2 The bill prohibits the head of the organization from
3 requiring an employee to inform the person that the employee
4 disclosed information, and prohibits the person taking adverse
5 employment action against an employee of the organization
6 who discloses information about the organization to a board
7 member, any public official, a law enforcement agency, a state
8 agency, the auditor of state or an auditor conducting an
9 examination in accordance with Code section 11.6, the office
10 of the attorney general, the office of citizens' aide, or to a
11 committee of the general assembly if the employee reasonably
12 believes the information evidences a violation of law or rule,
13 mismanagement, a gross abuse of funds, an abuse of authority,
14 or a substantial or specific danger to public health or safety.
15 The provisions do not apply if the disclosure of information is
16 prohibited by statute. A person who violates the prohibitions
17 commits a simple misdemeanor and may be liable to an aggrieved
18 employee for affirmative relief. The prohibition against
19 adverse action may be enforced through a civil action, and
20 the employee may bring an action for injunctive relief by
21 the district court. Adverse action against an employee for
22 declining to participate in contributions or donations is also
23 prohibited. The person and the organization must provide
24 employee notification procedures relating to these prohibitions
25 and remedies and must conduct related promotional campaigns.
26 The organization's governing boards meetings are subject to
27 Code chapter 21 and the governing board and the organization's
28 records must be maintained in compliance with Code chapter 22.